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REQUEST TO FILE UNDER SEAL

August 9, 2021

VIA E.C.F.

Honorable Lorna G. Schofield
United States District Judge
United States District Court
Southern District of New York
40 Foley Square
New York, New York 10007

Re: Christopher Hiram Cano v. City of New York, et al.,
19 Civ. 1640 (LGS)

Your Honor:

I am an Assistant Corporation Counsel in the Special Federal Litigation Division of the New York City Law Department and the attorney representing defendants City of New York, New York City Health and Hospitals, New York City Department of Correction (“DOC”) Captains Charles and Robinson, and DOC Officers Chisolm and Santiago (collectively, “Defendants”) in the above-referenced matter.¹ Defendants write to respectfully request that the Defendants be permitted to file their anticipated August 9, 2021 status letter, which also seeks to extend the stay of this action, under seal because it discusses matters and documents which have been explicitly protected from disclosure by the Court’s September 26, 2019 Stipulation of Confidentiality and Protective Order (hereinafter, “Protective Order”) and also concerns other private and/or confidential matters concerning Plaintiff. (See Dkt. No. 37 at ¶ 2(f).)

By way of background, Plaintiff was scheduled to be deposed by Defendants at the Manhattan Detention Complex on October 31, 2019. However, on October 29, 2019, the Defendants learned that Plaintiff was discharged from DOC custody into the custody of New York State. (See Dkt. Nos. 44, 45.)

¹ Upon information and belief, DOC Officer Murray has not been served with process and, thus, is not yet a proper party to this action.

Upon information and belief, on November 8, 2019, former Assistant Corporation Counsel Samantha J. Pallini provided the Court, under seal, with an update with respect to the Plaintiff's custody status and relevant criminal case, which are confidential pursuant to HIPAA and the Protective Order. Pursuant to the Protective Order, "[a]ny records unsealed as a result of Plaintiff's properly executed authorization for the unsealing of records pursuant to New York Criminal Procedure Law §§ 160.50 and 160.55, particularly pertaining to Bronx Supreme Court Indictment No. 02396/2016[,] are to be designated confidential materials and protected from disclosure to third parties, except those persons listed in paragraph 5. (See Dkt. No. 37 at ¶ 2(f).)

Here, the contents of the Defendants' anticipated August 9, 2021 status letter, which also seeks a continued stay of this action, concerns the Plaintiff's custody status and certain disclosure on the public docket may violate HIPAA. In addition, the information contained in the Defendants' anticipated letter also directly relates to Plaintiff's Bronx Supreme Court Indictment No. 02396/2016, which, upon information and belief, includes records that are not publicly available and which are protected by the Protective Order.

Accordingly, the Defendants' anticipated filing contains confidential information, and the Defendants respectfully request the Court's permission to file the Defendants' anticipated August 9, 2021 letter motion under seal.²

The Defendants thank the Court for its consideration.

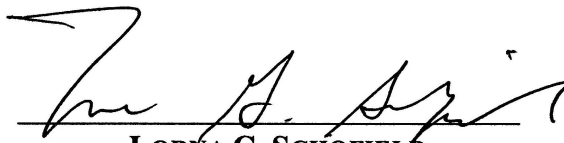
Respectfully submitted,

/s/ Nicolette Pellegrino
Nicolette Pellegrino
Assistant Corporation Counsel
Special Federal Litigation Division

The application is GRANTED. The status letter at Docket No. 119 shall be filed under seal. Only Christopher Hiram Cano, Nicolette Pellegrino, the City of New York, the New York City Health and Hospitals Corporation, Correctional Officers Chisolm, Santiago, Murray, and Captains Robinson and Charles shall have access to the letter at Docket No. 119. Having demonstrated good cause for a stay extension, Defendants' motion for a three-month extension of the stay in this case is GRANTED. The parties shall continue to submit joint status letters every thirty days. The Clerk of Court is respectfully directed to mail a copy of this Order to pro se Plaintiff and close the docket entries at Nos. 118 and 119.

SO ORDERED

Dated: August 11, 2021
New York, New York


LORNA G. SCHOFIELD
UNITED STATES DISTRICT JUDGE

² The Defendants will file their anticipated August 9, 2021 Status Letter under seal through the ECF system subsequent to filing their instant request.

³ Plaintiff recently informed the undersigned that she is now being housed at the North Infirmary Command.